

## Disciplinary, Complaints & Appeals of Code of Behaviour Breaches (Adults, Children and Vulnerable Adults)

Issue History		
Issue	Date	Reason for Issue
1.0	4/05/2022	First Issue

### Introduction

This Procedure is established by the Executive Committee and is based on, and operates under, the provisions of Tennis Ireland document “**Complaint, Objection & Disciplinary Rules and Procedures**” of 22<sup>nd</sup> October 2010. The provisions of the Tennis Ireland document take precedence over any conflicting provisions of our Club Constitution or any other Club Rules or Procedures.

Castleknock Lawn Tennis Club (CLTC) is committed to creating and maintaining an environment which upholds the dignity and respect of members and which supports every member’s right to play tennis, socialise and undertake voluntary work in an atmosphere which is free from any form of harassment, abuse, intimidation or bullying. This is reflected in the documented Codes of Conduct for Members, Children, Parents/Guardians and Coaches/Leaders. Acceptance and adherence to these Codes are prerequisites to membership of or involvement with CLTC. Copies are available on the CLTC Website (Members/Governance section).

**Should a complaint or report indicate suspected child abuse then this must be reported to the relevant Statutory Authorities. The Club Designated Liaison Person (DLP) may be consulted for advice (the Club Manager will provide contact details for the current DLP). Any such complaint or report is outside the scope of this Procedure. In such cases, no investigation should be undertaken by the Club Children’s Officer/ Designated Liaison Person or other Club Official or Sports Leader.**

### Scope

This Procedure is intended to cover reported breaches of any of the Club Codes of Behaviour.

## **Club Disciplinary Hearings Committee (Hearings Committee)**

CLTC Executive Committee, shall appoint a Disciplinary Hearings Committee (Hearings Committee) to investigate and resolve problems relating to the conduct of any of its members, sports leaders, coaches or staff. At the discretion of the Executive this Committee may be established on an annual standing basis or simply on receipt of a complaint or report.

The Committee shall consist of five ordinary registered members of the club over the age of 18. Committee to be gender balanced as far as possible. A Children's Officer may not be a member. No person appointed to the Hearings Committee shall stand for more than four years.

A quorum of three of the members of the Committee shall be sufficient for hearing any individual complaint or report. To ensure fair process, it is essential that each member of the committee considering any specific case must not be directly connected with the case, even as a witness. This may require the Executive to adjust the committee membership in specific cases. *Note: The intention is that a panel of five be established by the Executive as the Committee from which three will be sufficient to deal with each case.* The Hearings Committee will nominate one of its members to act as Chairperson of the Hearings Committee for each case as it arises.

The Hearings Committee will be responsible for determining the outcome of the investigation. Where a finding of misconduct is made, the The Hearings Committee shall have jurisdiction to impose any sanctions they deem appropriate (see later in this document for guidelines).

## **Reporting Procedures**

### **Formal Complaints and Reports**

The complaint should be in writing and addressed to the Club Manager. Electronic reporting will be accepted. Verbal reports will not be accepted. Where a complaint arises, the initial report should be made as soon as possible after the incident but definitely within 14 working days, so as to facilitate investigation and timely resolution. Complaints beyond 14 working days will only be accepted if there is a compelling reason for the delay as decided by the Hearings Committee.

The Complaint or Report shall refer to the specific incident and specify the Rule or Code of Conduct allegedly broken.

The Club Manager will acknowledge receipt of the complaint to the complainant within 5 working days and will refer the complaint to the Hearings Committee.

The Club Manager will also advise any respondents to the complaint of the details of the complaint within 5 working days.

## **Other Reports**

An Officer of the Club or an employee of the Club may refer an issue to the Club Manager for investigation and potential action without the need for a formal complaint. For example this may arise in the case of damage or interference with Club property or facilities, or non adherence to club policies. The Club Manager in the first instance may use best endeavours to address and resolve the issue without recourse to the Formal Process. If this fails, or is not considered appropriate to the issue involved, the Club Manager may refer the matter to the Hearings Committee for investigation and potential action.

## **NOTES:**

- 1. If the complaint or report involves suspected abuse or a criminal offence the disciplinary process will be discontinued and the statutory authorities will then be informed.**
- 2. In the interests of Fair Process and Maintenance of Sensitive Data the parties to any complaint should maintain confidentiality at all times.**

## **Immediate Sanction – exceptional circumstances**

It is recognised that in exceptional circumstances the need may arise to issue an immediate sanction where it would not be possible or appropriate to follow the formal procedure detailed above. Examples would include misconduct during an event or tournament where expulsion of a competitor might be necessary, or where a member by virtue of some misbehaviour had to be ordered to leave the Club premises.

In the cases of events and tournaments, the Event Leaders or Officials shall have the authority to expel a competitor from the event and shall provide a report to the Club Manager so that any further action may be considered by the Hearings Committee.

In other exceptional circumstances and where they consider necessary, the Hearings Committee, shall have the authority to issue an immediate sanction on a member. In circumstances where it is not practical for the Hearings Committee to deal with an urgent issue, the Club Chairperson, or in their absence, the Club Vice-Chairperson shall have this authority. In these cases it is recommended that the sanction issued should be as limited as possible so as to allow the matter be referred to the formal process for investigation and decision.

## **Informal Resolution**

### **Scope**

On receipt of a Complaint the Hearings Committee may decide to delegate to an appropriate person the function of approaching the parties to ascertain the parties' agreement to deal with the Complaint under the informal procedure set out below. This will normally only apply to minor offences.

It will not apply to cases involving Children or Vulnerable Adults.

The delegated person shall not include anyone who potentially could be involved in subsequent elements of the process e.g. Formal Hearing or Appeal.

### **Process**

In determining appropriateness of using the Informal Complaints Procedure the delegated person as specified above shall approach the Complainant and Respondent(s) to confirm if they are agreeable for the Complaint being dealt with in such a manner. In the event that either of the parties to the Complaint is not agreeable to referring the Complaint to the Informal Complaint Procedure then the matter shall be heard before the Hearings Committee.

The delegated person may contact or meet the parties and generally go between the parties in an attempt to resolve the Complaint

If either party is dissatisfied with the outcome of the Informal Complaints Procedure then they may proceed to a formal hearing before the Hearings Committee.

A record will be kept by the club of all cases that are finalised in this manner and these incidents may be taken into account if there are any further incidents.

## **Hearings Committee - Investigation and Decision Process**

### **General Provisions**

The objective of the process is to ensure as far as possible that a reasonable, well founded and fair outcome is achieved.

Conclusions should be based on "a balance of probabilities" criterion.

All communications with Members who happen to be involved in the investigation including as witness, and who are under 18 years of age, should be via the Parents/Guardians and never directly with these Members. Where meetings are required with these Members, at least one Parent/Guardian must be present.

Written confidential records of all complaints including notes and electronic records will be safely and confidentially kept by the Club Manager in accordance with Club Procedures covering the maintenance and retention duration for the possession of such records.

It is incumbent on Club Members and Staff, even if not directly involved with the complaint, to co-operate with an investigation as required by the Hearings Committee e.g. as potential witnesses.

### **Investigation Process**

The Hearings Committee should furnish the individual or individuals involved with the nature of the complaint being made against them and afford them the opportunity of providing a response either verbally or in writing, but usually at a meeting with the Hearings Committee.

It is recommended that the Hearings Committee also advise the parties involved that they should familiarise themselves with the provisions of this procedure which will be available on the Club Website. Alternatively, the Club Manager will provide a paper copy on request.

If the Committee convene an oral hearing it shall notify the parties of:

- (i) The specific Complaint/ alleged Misconduct
- (ii) The relevant rule or code of conduct and the alleged breach
- (iii) The parties to the Complaint/alleged misconduct
- (iv) The time, date and venue of the hearing
- (v) The rights of the parties at the hearing (see below)
- (vi) Any other procedural requirements

The Committee, in its discretion, may invite other persons (including but not limited to witnesses, officials or experts) to provide evidence or assistance to the Committee in any form.

The parties are entitled at an oral hearing to: -

- (i) Be accompanied at the oral hearing purely in a support capacity. Parties intending to be accompanied must advise the Chairperson of the Hearings Committee in advance.
- (ii) Call witnesses. Such witnesses may only be present to give their evidence and such witnesses may be questioned by the Committee.
- (iii) Make submissions in writing or otherwise.

The Hearings Committee should review any relevant documentation and electronic record and hold any meetings deemed necessary for investigating the complaint or incident of suspected misconduct. Where oral input is provided, the notes of this should be agreed with the person making the submission.

Where necessary the Hearings Committee should consult with one of the Club Children's Officers or Designated Liaison Person (who were not party to the initial investigation) in relation to issues of child welfare and codes of conduct.

The Hearings Committee should use every effort to complete the Investigation and arrive at a decision and recommendation within 14 working days from receiving the complaint or report. In cases where, for whatever reason, the process cannot be completed within this timeframe the parties should be advised of the delay.

## **Decision**

The Committee decisions will be based on a majority vote if a unanimous conclusion is not possible.

The Chairperson of the Hearings Committee shall document the decision reached as well as referencing any supporting information deemed appropriate. This should be provided in a written report which will be held by the Club Manager.

Where it is established that an incident of misconduct has taken place, the Hearings Committee shall determine what sanction should apply. The Chairperson of the Hearings Committee should advise the Club Manager who will act as the Disciplinary Officer (responsible for administering and implementing disciplinary action). The Club Manager will communicate the decision to all the parties involved – see guidelines later in this document in this regard.

### **Guidelines re potential cautions or sanctions:**

The Hearings Committee should take into account mitigating and aggravating factors once a decision on culpability is reached but prior to the imposition of a sanction.

Such factors should include the following:

- (a) Age
- (b) Cooperation
- (c) Prior record including any Prior Warnings
- (d) Remorse e.g. any sincere apology or effort at restitution
- (e) Gravity of offence incl. effect on other party (if any)
- (f) Effect of sanction on Respondent
- (g) Any other factor deemed relevant.

The following Sanctions may be imposed by a Hearings Committee and may be upheld, quashed or varied by an Appeals Committee (see later in this document):

- (a) Written warning
- (b) Reprimand
- (c) Suspension from participation in; - a. Event(s) for any period; b. Team/squad for any period; c. The game of Tennis for any period
- (d) Suspension from being a Member of Castleknock Lawn Tennis Club
- (e) Expulsion from being a Member of Castleknock Lawn Tennis Club
- (f) Fine
- (g) Other sanction as deemed appropriate

Where the decision of the Hearings Committee (or Appeals Committee) involves a sanction, the Hearings Committee (or Appeals Committee), at its discretion, may delay the application of the sanction pending an appeal/further appeal.

As a guideline, sanctions should be structured to be clearly time-bounded and enforceable in practice. Where sanctions are imposed they must be clear and precise leaving no room for ambiguity.

Where the sanction involves a period of suspension, Membership Fees in respect of the period of suspension will not be refundable.

Where the sanction involves expulsion from the Club, a refund for the outstanding period of membership will be made

**Note (per Tennis Ireland Complaints procedure 2011):** Any suspension or removal from membership must be notified to the CEO of Tennis Ireland

## **Appeal Procedure**

If any Member against whom the complaint was made is unhappy with the decision of the Hearings Committee she/he has the right to appeal the decision to the Executive Committee. Any appeal should be made in writing through the Honorary Secretary within 10 days of the decision of the Hearings Committee.

### **Appeals Committee**

The Appeal will be investigated by an Appeals Committee which the Executive will establish on an ad-hoc basis to review the Hearings Committee decision. This will consist of three Members of the Executive Committee, one of whom should be the President or Chairperson/Vice-Chairperson, and all of whom should be independent of the initial investigation and of the complaint itself.

### **Appeals Committee Consideration and Decision**

The Appeals Committee will decide as to the extent of investigation it deems appropriate – this will not necessarily involve a complete re-run of the initial investigation.

The Appeals Committee will have full access to all the records of the initial investigation. Where necessary the Appeals Committee should consult with one of the Club Children's Officers or Designated Liaison Person (who were not party to the initial investigation) in relation to issues of child welfare and codes of conduct.

The Appeals Committee has the power to confirm, set aside or change any sanction imposed by the Hearings Committee.

The outcome of the Appeals process will be notified via the Club Manager (acting as Disciplinary Officer) in the same manner as the Hearings Committee results.

If any Member against whom the complaint was made is unhappy with the decision of the Appeals Committee she/he has the right to appeal the decision to the Leinster Branch of Tennis Ireland. Such an appeal would operate under the relevant Procedures of Leinster Tennis and Tennis Ireland.

### **Guidelines when advising the outcome of the Complaint including where Sanctions are applied**

Following a decision by the Hearings Committee, the Club Manager (the Disciplinary Officer for the purpose of the procedure) shall write to the parties to the complaint advising of the decision and, if applicable, providing details of any sanction to be applied.

When delivering the decision on the complaint or report, the Club Manager:

- (1) must notify all the parties involved as soon as possible. If the initial communication is by email this must be followed up by written letter delivered through normal mail.
- (2) should ensure that the message is absolutely clear to the individual addressed.
- (3) must be conscious of the fact that the decision could be appealed and hence must ensure that the correspondence with the individual will not be overturned on a technicality.
- (4) where a sanction is being notified, must ensure that the correspondence makes clear the date on which the sanction starts and when it ends.
- (5) where a sanction is being notified, should also advise the individual that if they breach the terms of the sanction, the Hearings Committee reserve the right to take further action.
- (6) Where a sanction is being notified, at the end of each letter, use words such as “In view of the circumstances specific to this incident we are imposing etc” *This is to reduce the potential of any claims relating to precedent being used in any Appeal.*